

REMARKS**Summary of the Office Action**

Claims 1 and 3-5 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 4-6, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,671,444 to Oliver ("Oliver").

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oliver in view of U.S. Patent No. 3,029,436 to Kufel ("Kufel").

Summary of the Response to the Office Action

Applicant has amended claims 1 and 6. Applicant has cancelled 4 and 8. Claims 1, 3, 5-7, and 9 are presently pending for further consideration.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 1 and 3-5 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 has been amended to eliminate the feature of "the contact surface."

Rejection Under 35 U.S.C. § 102(b)

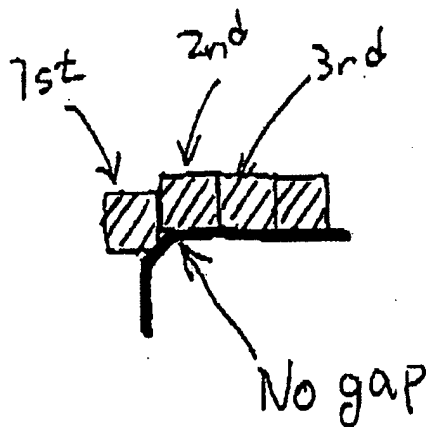
Claims 1, 4-6, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Oliver. Applicant respectfully traverses the rejection of claim 1 as amended.

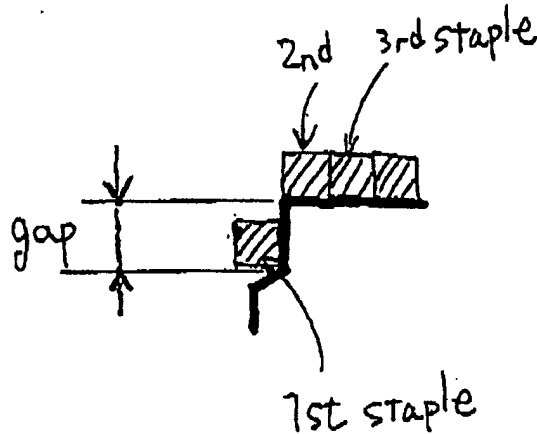
Claim 1 has been amended to recite "wherein a protrusion surface of the support surface opposed to the leading-end staple slopes in a driving direction of the driver, and there is no gap

between an upper surface of the pusher and the protrusion surface.” As shown in Fig. 1 of Oliver, there is gap in the driver’s moving direction between the upper surface 302 of Oliver and the inclined surface of the pusher. Thus, Oliver does not meet this requirement of claims 1 and 6.

In the present invention, as shown in sketch A below, the inclining support surface can contact and support a lower surface of the upper portion of the leading-end staple (first staple) as the first staple is torn off from the second, third, etc. staples. This prevents the cutting noise in the tearing off step.

SKETCH A



SKETCH B

As shown in sketch B above, with the structure of Oliver, the lower surface of the upper portion of the first staple cannot contact the inclined surface until the first staple is struck by the driver 22 and moves in the driver's moving direction by the length of the gap. Because the lower surface of the upper portion of the first staple cannot contact the inclined surface of Oliver, the first staple is already completely torn off before it reaches the inclined surface. Thus, the structure of Oliver cannot prevent the cutting noise in the tearing off step.

For at least the above reasons, Applicant respectfully requests that the rejection of claims 1, 5, 6, and 9 (Claims 4 and 8 having been cancelled.) under 35 U.S.C. § 102(b) as being anticipated by Oliver be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oliver in view of Kufel. Applicant respectfully traverses the rejection.

Applicant respectfully asserts that claims 3 and 7 are in condition for allowance based on their dependence from claims 1 and 6, respectively. Kufel does nothing to overcome the deficiencies of Oliver. For at least these reasons, Applicant respectfully asserts that claims 1 and 7 are in condition for allowance.

Applicant respectfully asserts that claims 1 and 3-9 are in condition for allowance. Prompt allowance of claims 1 3, 5, 6, 7, and 9 is requested.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: September 23, 2008

By:



Kent Basson

Registration No. 48,125

CUSTOMER NO. 009629

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Telephone: 202.739.3000

Facsimile: 202.739.3001